

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

JOSEPH DANIEL MOORE                               §  
VS.   §      CIVIL ACTION NO. 1:07-CV-28  
TOM MANESS                                       §

MEMORANDUM ORDER OVERRULING PLAINTIFF’S OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

Plaintiff Joseph Daniel Moore, a prisoner confined at the Jefferson County Correctional Facility, proceeding *pro se*, filed this civil rights complaint pursuant to 42 U.S.C. § 1983.

The court ordered that this matter be referred to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the complaint pursuant to 28 U.S.C. § 1915A.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the objections are without merit.

Plaintiff also filed an amended complaint in which he asserts a negligence cause of action. Negligent conduct does not give rise to liability under Section 1983. *See e.g., Farmer v. Brennan*,

511 U.S. 825 (1994) (To establish an Eighth Amendment violation, plaintiff must prove the defendant was deliberately indifferent to the inmate's needs.); *Daniels v. Williams*, 474 U.S. 327, 328 (1986) ("We conclude that the Due Process Clause is simply not implicated by a negligent act of an official causing unintended loss of or injury to life, liberty, or property."). "Section 1983 imposes liability for violations of rights protected by the Constitution, not for violations of duties of care arising out of tort law. Remedy for the latter type of injury must be sought in state court under traditional tort-law principles." *Baker v. McCollan*, 443 U.S. 137, 146 (1979).

**ORDER**

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

So **ORDERED** and **SIGNED** this 7 day of **June, 2007**.



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Ron Clark, United States District Judge